

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION**

NICHOLAS KNOPICK,)
)
)
Plaintiff,)
)
)
v.) No. 5:15-CV-005073-TLB
)
)
JODI BREEDLOVE; and)
MICHAEL BREEDLOVE)
)
)
Defendants.)

RESPONSE TO ORDER TO SHOW CAUSE

Comes now the Plaintiff, Nick Knopick, by and through his undersigned counsel, and for his Response to Order to Show Cause, states and alleges as follows:

1. On March 18, 2016, the Court issued an Order to Show Cause (ECF No. 55), in which the Court observed that, due to the dismissal of the County Defendants, all federal claims have been dismissed, leaving only the Plaintiff's claim for conversion against Jodi and Michael Breedlove. The Court then ordered the Plaintiff to show cause as to why the case should not be dismissed without prejudice for lack of federal subject matter jurisdiction.

2. Although the Court correctly notes that federal-question jurisdiction, under 28 U.S.C. § 1331, and supplemental jurisdiction, under 28 U.S.C. § 1337, were the bases for federal subject matter jurisdiction asserted in the Complaint (ECF No. 1) and Amended Complaint (ECF No. 37), the Court also has subject matter jurisdiction of this case pursuant to 28 U.S.C. § 1332, as the amount in controversy exceeds \$75,000 (ECF No. 37, page 13, ¶1 of the prayer) and there is complete diversity of citizenship. Plaintiff is a resident of Texas (see Amended Complaint, ECF No. 37, ¶4), and all Defendants are residents of Arkansas (see Amended Complaint, ECF No. 37, ¶¶ 5-10).

3. Moreover, Plaintiff has previously taken a non-suit. (See ECF No. 85, Case No. 3:11-cv-03010). As such, a dismissal without prejudice in the instant case would serve as an adjudication on the merits.

WHEREFORE, premises considered, Plaintiff prays that the Court refrain from dismissing the case and continue to exercise jurisdiction over this case.

Respectfully submitted,
Nicholas Knopick, Plaintiff

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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically with the Clerk of Court using the CM/ECF system. As such, this pleading was served on all counsel who are deemed to have consented to electronic service. All other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing by regular mail on this 18th day of March, 2016

/ s / Casey Castleberry

Attorney